

REMARKS

The present amendment supplements the previous Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009 in response to the Final Office Action mailed August 13, 2008. The present amendment has been made based on the claims filed in the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009 having been entered.

After entry of this amendment, claims 1-11, 15, 17-25 and 27-32 are pending, of which claims 1-10, 24-25, and 29-30 are withdrawn. Claims 1, 11, 31, and 32 have been amended without prejudice or disclaimer to better comply with U.S. practice. The amendments find support *inter alia* in the original claims. No new matter has been added.

Applicants enclose herewith a Request for Continued Examination requesting entry of the previous Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009 and the above claim amendments and present remarks, and examination of the withdrawn claims. The Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009, the above claim amendments, and following remarks address the rejections in the Final Office Action dated August 13, 2008 and the comments of the Advisory Action mailed January 28, 2009.

Should the product claims be found allowable, the withdrawn claims which depend from or otherwise include all the limitations of an allowable claim are requested to be rejoined. See MPEP § 821.04.

Applicants thank the Examiner for the telephonic interview of February 2, 2009 where the Examiner explained that the comments raised in the Advisory Action mailed January 28, 2009 related to the Amendments to the Specification in the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009. The Examiner indicated that further clarification of the amendments made to the specification such as those discussed in the telephonic interview would likely overcome the concerns raised in the Advisory Action. The following remarks provide further clarification of the amendments and remarks made in the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009.

The amendments made in the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009 to Table 10 of the specification correspond to corrections in sequence identifier numbers only. The actual sequences remain the same as in the original Table 10 as filed. In the original application as filed, Table 10 did not have any sequence identifier numbers associated with the primer sequences recited in Table 10. Sequence identifiers were added in the Preliminary Amendment of September 30, 2005 in order to comply with 37 CFR §§ 1.821-1.825. However, the sequence identifiers were inadvertently added incorrectly. Only one sequence identifier was added per sequence pair rather than two to correspond to each of the two primer sequences recited per clone. In the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009, the sequence identifier numbers were simply changed from one per clone to two per clone in order to properly reflect the primer pairs recited. Therefore, only the sequence identifier numbers were changed and not the sequences themselves. Accordingly, the amendments to Table 10 do not add new matter and should not raise any new issues under 35 U.S.C. § 112, first paragraph, as alleged in the Advisory Action. Entry of the amendments to Table 10 and the Sequence Listing are respectfully requested, as these are simply made for proper compliance with the Sequence Listing rules.

In addition, an obvious typographical error was found in the name of the clone associated with the primer recited in Example 16 at page 96, line 24. The specification recites “The MaLPAAT cDNA was amplified via PCR with the stated primers MaLPAAT2.1” The name “MaLPAAT2.1” at page 96 rather should read “MaLPAAT1.1” to be consistent with the clone name recited in Table 10 on page 92 (emphasis added). Support for this change can be found in Table 10 and the Sequence Listing (see below). Table 10 provides the only recitation found in the specification for the “stated” MaLPAAT primers, *i.e.* primers for clones MaLPAAT1.1 and MaLPAAT1.2. As explained in the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009, one skilled in the art would recognize that this is an obvious typographical error. Amending an obvious typographical error does not constitute new matter. See *In re Oda*, 443 F.2d 1200 (CCPA 1971); see also MPEP § 2163.07. Entry of the amendment to the specification to correct this inadvertent mistake is respectfully requested.

Furthermore, in the enablement rejection in the Final Office Action dated August 13, 2008 (at page 4), the Examiner alleges that the specification does not provide any evidence showing that SEQ ID NO: 16 is identified by the name MaLPAAT or that SEQ ID NO: 16 is the sequence that was used in Example 16. Applicants respectfully disagree for the reasons already of record and for the following additional reasons.

First, SEQ ID NO: 16 is described in the Sequence Listing as originally filed as an LPAAT from *Mortierella alpina*, thus a MaLPAAT, where one of skill in the art would readily recognize that the “Ma” portion of the name represents the first letters of the genus and species name. This is also evidenced by the clone names for the other organisms listed in Tables 9 and 10 (*i.e.* “Pp” corresponding to *P. patens*, “Sh” corresponding to *S. hanedai*). Thus the original Sequence Listing as filed provides evidence that SEQ ID NO: 16 is a MaLPAAT.

Furthermore, SEQ ID NO: 16 is described in the Sequence Listing as a DNA sequence of 1254 bp. In Table 10, clone MaLPAAT1.1 is described as being from *M. alpina* with a length of 1254 bp. The only sequence found in the Sequence Listing with a length of 1254 bp is SEQ ID NO: 16 from *Mortierella alpina*. Moreover, as explained in the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009, the primer set provided in Table 10 for amplifying MaLPAAT1.1 contains the 5'-end and the 3'-end primers that were designed to amplify the full-length sequence of SEQ ID NO: 16 (see sequence alignment previously provided). Thus it is clear from Table 10, from the Sequence Listing and the description provided therein, from the length of the sequence disclosed in Table 10 and in the Sequence Listing, and from the alignment of the primers recited in Table 10 under MaLPAAT1.1 to the full-length sequence of SEQ ID NO: 16, that SEQ ID NO: 16 indeed corresponds to clone no. MaLPAAT1.1 and encodes a MaLPAAT.

In light of the above remarks and amendments and those in the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009, the rejections are believed to be rendered moot. Reconsideration and withdrawal of the rejections is respectfully requested.

CONCLUSION

In view of the above remarks and amendments and those in the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009, Applicants believe the pending application is in condition for allowance. If any outstanding issues remain, the Examiner is invited to telephone the undersigned at the number given below.

Accompanying this response is a Request for Continued Examination and a petition for the third month extension of time to and including February 13, 2009 with the required fee authorization. Applicants have already authorized payment of a two month extension of time with the filing of the Amendment and Reply Under 37 CFR §1.116 filed January 7, 2009. Accordingly only the third month extension fee is due. No further fee is believed due. However, if any additional fee or credit is due, the Director is hereby authorized to charge or credit our Deposit Account No. 03-2775, under Order No. 13478-00002-US from which the undersigned is authorized to draw.

Respectfully submitted,

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